

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 894 of 1994

to

FIRST APPEAL No 912 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and

MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DEPUTY COLLECTOR AND SPL. LAND ACQ. OFFICER

Versus

RAMESHBHAI B DESAI

Appearance:

MR. PRASHANT DESAI, LD.GOV'T PLEADER for APPELLANTS IN
F.A. NO. 894 TO 902 OF 1994

MR. SUDHANSU PATEL, LD.AGP FOR APPELLANTS IN F.A.NO
903 TO 912 OF 1994.

No one has appeared for respondents despite service.

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 29/12/1999

COMMON ORAL JUDGEMENT

Per: M.R. Calla, J :-

1. All these 19 appeals are directed against the common judgment & order dated 23rd July 1992 passed by the 2nd Extra Asst. Judge, Sabarkantha as Reference Court under Land Acquisition Act, the main Land Reference Case being L.A. Case No. 4404 of 1989. In all there were 20 Land Reference Cases, out of which no compensation has been granted in Land Reference Case No. 4406/89, and the learned Asst. Govt. Pleader has submitted that therefore the State has preferred only 19 appeals.

2. This group of appeals is directed against the common judgment & order dated 23rd July 1992 and therefore we propose to decide the entire group of 19 appeals by this common judgment & order. There is no dispute that the lands of the claimants in Village Bhadreswar, taluka Idar, district Sabarkantha were sought to be acquired for the purpose of Guhai project of Dharoi Dam. For this purpose notification under Section 4 was issued on 20-3-1986 and the notification under Section 6 was issued on 26-3-1987. The award under Section 11 was passed on 30-3-1988. The Land Acquisition Officer has awarded compensation at the rate of Rs.112-00 per Aare in respect of the irrigated land and Rs.110-00 per Aare in respect of non irrigated land and Rs.2-00 per sq. meter in respect of kharaba land. The claimants had claimed a sum of Rs.2000-00 per Aare. When the matter was taken to the Reference Court, the Reference Court has granted compensation at the rate of Rs.625-00 per Aare in respect of irrigated land, and Rs.425-00 per Aare in respect of non irrigated land, and Rs.6-00 per sq. meter for kharaba land. Besides this, in respect of those claimants who also have their wells etc. on the land in 8 L.R. Cases, that is:-

L.R. Case No: Survey No:

4484/89	508
4389/89	567
4395/89	581
4396/89	569
4404/89	581/2
4405/89	660
4410/89	581/5

In all above L.R. cases compensation has been

granted separately for the wells thereon.

3. Ld. AGP Mr. Sudhansu Patel has invited our attention to Para-13 and 14 of the impugned award. We find from para-13 of the impugned award that the Reference Court while deciding this matter and passing the impugned order dated 23-7-1992 has placed reliance on an earlier case decided by Land Reference Court being L.R. Case No. 1072/87 (Exhibit-54). In that case the lands under acquisition were of taluka Idar, wherein agricultural lands had been acquired for the same purpose, that is Guhai project. For the acquisition of the lands of village Savli which is adjoining to the village Bhadreswar in the same taluka, that is Idar, the notification under section 4 was issued on 27-5-1982, notification under section 6 has been issued on 22-5-1985; and the award was passed on 21-5-1987. In that case, Reference Court had granted compensation at the rate of Rs.678-00 per Aare in respect of irrigated land and Rs.468-00 per Aare for non irrigated land and Rs.6-00 per sq. meter in respect of kharaba land. These rates of compensation had been fixed in that Reference Case No. 1072/87 keeping in view the pipelines and constructions etc thereon, and it was also found that, in that case no compensation with respect to well, pipelines and constructions etc. had been paid in advance.

4. It is not in dispute that the lands which are under acquisition in the present cases are similar and identical to the lands which were under acquisition in L.R. Case No. 1072/87, wherein the compensation was granted at the rate of Rs.678-00 and Rs.468-00 per Aare in respect of irrigated and non irrigated lands respectively and Rs.6-00 per sq. meter for kharaba land and in those cases no advance compensation had been paid with regard to the well, pipelines and construction work etc. In L.R. Case No. 1072/87 notification under section 4 has been issued on 27-5-1982, whereas in the present case the notification under section 4 has been issued on 20-3-86 and whereas the land is identically situated and was acquired for the same purpose, in the present case the Reference Court has granted Rs.625-00 per Aare for irrigated land and Rs.425-00 per Aare for non-irrigated land and Rs.6-00 per sq. meter for kharaba land, the same cannot be said to be unreasonable. The lands in respect of which only compensation has been granted in the present cases there are no wells or any other construction work or pipelines and therefore instead of granting the compensation at the rate of Rs.678-00 and Rs.468-00 as in the case of L.R. case No. 1972/87, the same has been reduced by the Reference Court

to Rs.625-00 and Rs.425-00 per Aare.

5. With regard to the 7 L.R. Cases of which the details have been given hereinabove, separate compensation has been granted in respect of the wells, pipelines and construction work etc. and it is not made out that the rate of compensation for the lands in these cases was fixed keeping in view the yield and therefore the Reference Court has granted separation compensation in respect of wells, pipelines or construction work. It has not been pointed out before us that the decision of the Reference Court in case of L.R. case No. 1072/87 has been reversed, and Ld. AGP has submitted that what was the fate of the judgment of the Reference Court in L.R. Case No. 1072/87 is not known to him. In the facts & circumstances of the present case, we are of the considered opinion that, the order as has been passed by the Reference Court does not warrant any interference by this Court and the rate at which the compensation has been granted and the amount in respect of wells, pipelines and construction work etc. which has been awarded cannot be said to be unjust or unreasonable.

6. We therefore do not find any force in these appeals. All these 19 First Appeals are hereby dismissed. In the facts & circumstances of the case, no order as to costs.

/vgn